



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]

Jeanie P.,<sup>1</sup>  
Complainant,

v.

Merrick B. Garland,  
Attorney General,  
Department of Justice  
(Federal Bureau of Prisons),  
Agency.

Appeal No. 2021004664

Hearing No. 480-2019-00920X

Agency No. BOP-2018-0198

**DECISION**

On August 23, 2021, the Agency issued its Final Order stating that it was accepting in part, and rejecting in part the EEOC's Administrative Judge's (AJ) April 28, 2021, Decision and Order Entering Judgment, and the subsequent July 14, 2021, Corrected Decision, concerning Complainant's equal employment opportunity (EEO) complaint alleging employment discrimination in violation of Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. On the same day, the Agency filed the instant appeal pursuant to 29 C.F.R. § 1614.403(a). For the reasons that follow, the Agency's August 23, 2021, Final Order is AFFIRMED in part, and REVERSED in part.

**ISSUES PRESENTED**

The issue presented is whether the AJ erred in finding that the Agency violated the Rehabilitation Act when the AJ determined that the Agency disclosed Complainant's medical information in violation of the Rehabilitation Act.

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<sup>1</sup> This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

### BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Cook Foreman, WS-08, at the Agency's Food Service Department at the Federal Correctional Complex (Complex) in Victorville, California.

On February 8, 2018, Complainant filed a formal complaint alleging that the Agency subjected her to a hostile work environment and discriminated against her on the bases of disability (mental) and reprisal for prior protected EEO activity under when:

1. Complainant's first line supervisor, the Assistant Food Service Administrator (Supervisor), disclosed her medical information to other staff; and
2. The Supervisor used Complainant's medical disability as the reason for altering coworkers' schedules, removing them from already approved compressed work schedules and cancelling scheduled leave.

The investigative record reflects the following pertinent matters relating to the subject claim<sup>2</sup>. Complainant listed the following individuals as the responsible management officials (RMO): the Supervisor; her second line supervisor, the Food Services Administrator (Administrator); the Complex Warden; the Warden; and the Associate Warden. Appeal File (AF) at 29.

Due to a stalking incident with an inmate at the facility, from June 2017, until Complainant's resignation in June 2018, Complainant was on leave and not at work at the Complex. AF at 50-51; 54. On or about June 16, 2017, Complainant filed a Workers' Compensation Form. AF at 273. On this form, Complainant listed her disease or illness as "Acute Stress Disorder." *Id.* Complainant submitted corroborating medical documentation from her medical providers with her form. AF at 252-272.

On August 22, 2017, during a roster committee meeting with the Cook Supervisor, the Case Manager, and the Associate Warden, the Supervisor allegedly disclosed Complainant's stress leave. AF at 107. The Cook Supervisor and the Case Manager were both Union Officials as well. The Cook Supervisor testified that he could not recall the Supervisor saying anything about Complainant's medical condition. AF at 193. The Associate Warden denied hearing S1 ever discussing Complainant's medical condition. AF at 165-167.

The Case Manager, however, testified at the hearing that during the August 22, 2017 meeting, the Supervisor stated that Complainant's stress leave was causing scheduling problems and that Complainant should quit because she was always having medical issues. AF at 231-232; Hearing Transcript (HT) at 89-90. The Case Manager testified that the Supervisor had, on multiple other occasions, also addressed Complainant's medical condition. AF at 231.

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<sup>2</sup> The Commission's decision will only detail background information necessary to address claim 1 as that is the portion on appeal to the Commission.

On September 16, 2017, a colleague had messaged Complainant through Facebook regarding posts she had made. HT at 32. Complainant posted about a previous heart condition but had not discussed anything regarding stress leave or anxiety. HT at 14-15; 47-48.

On October 4, 2017, Complainant asserted that the Supervisor emailed the staff regarding scheduling and noted employees, such as Complainant, that did not have a return date scheduled. AF at 76. Complainant stated that this made her coworkers very upset with her because she had placed a bid for the first 2018 quarter. Complainant asserted that her coworkers were upset that she was placing future bids if she had no return date set and complained of this to the Union. Id. AF at 295.

On October 5, 2017, the Case Manager, in his Union capacity, sent an email to the Supervisor reminding her “that privacy rights and such should be adhered to and if there are issues regarding specific staff, that we refrain from putting that information out.” AF at 344.

In early October 2017, the Case Manager emailed the Warden and requested informal resolution regarding an allegation that the Supervisor disclosed Complainant’s medical information. AF at 117. The Warden testified that she asked a second Associate Warden (AW2) to address the issue with the Supervisor but did not follow up with the matter. The Warden believed the matter was addressed. Id. AW2 asserted that she was unaware of any medical information being disclosed by the Supervisor. AF at 129. AW2 was not specifically questioned by the EEO Investigator as to whether the Warden had asked her to address the matter with the Supervisor.

In early October 2017, Complainant received “vulgar” phone calls that came in from blocked numbers to her personal cell phone. These messages stated that if Complainant “couldn’t fucking handle [her] job, [she] needed to quit” and that she was “ruining the schedule for everybody.” HT at 15-17. Complainant informed the Case Manager of these calls and did not receive any after that. HT at 18.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of her right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ), Complainant requested a hearing. On May 11, 2020, the Agency filed a Motion to Dismiss, asserting that Complainant’s hearing request was untimely as was Complainant’s contact of the EEO Counselor. Complainant responded to the Agency’s motion. On June 12, 2020, the AJ issued an Order Denying the Agency’s Motion to Dismiss. A hearing was held on January 27, 2021.

#### *AJ’s Determination*

Following the hearing, on April 28, 2021, the AJ issued a decision partially in the Agency’s favor and partially in Complainant’s favor. The AJ first addressed the Agency’s concern regarding timeliness. The AJ determined that in this particular case, the tolling of the time limit was appropriate because Complainant was reasonably unaware of the August 2017 disclosure at the time it occurred.

The AJ noted that Complainant was on leave, and that it was not until the vulgar October 2017, phone calls regarding scheduling that Complainant's reasonable suspicion would have triggered. The AJ noted that there were no prior incidents that would have made Complainant suspect any inappropriate medical disclosure.

Regarding the medical disclosure, during the August 22, 2017, meeting, the AJ noted that while it was unclear whether the Cook Supervisor and the Associate Warden heard the work-related stress leave disclosure, the testimony from the Case Manager was credible and itself enough to demonstrate that the Supervisor violated the Rehabilitation Act. The AJ determined that there was no demonstrated need for the Supervisor to disclose this information to the Case Manager, or any others, during the meeting. Accordingly, the AJ determined that the Agency had violated the Rehabilitation Act.

However, the AJ determined that the Supervisor did not violate the Rehabilitation Act when she disclosed that Complainant was absent on extended leave when S1 revealed such information during other workplace discussions. Additionally, the AJ noted that while there were rumors regarding Complainant's absence and medical condition, the AJ did not find preponderant evidence that the Supervisor had disclosed any medical information to Complainant's colleagues, noting that rumors appeared to stem from Complainant's Facebook posts.

Lastly, the AJ found that Complainant failed to establish that the Agency subjected her to a hostile work environment based on disability and reprisal.

As remedy for the unlawful medical disclosure, the AJ awarded Complainant \$2,500.00 in non-pecuniary compensatory damages; two hours of EEO training to management, human resources personnel, and legal staff; consideration of disciplinary action against the Supervisor; and that the Agency post a Notice of the finding of discrimination indicating that discrimination had occurred.

The AJ also allowed for attorney's fees and costs pending Complainant's Attorney Fee Petition (Petition). On May 12, 2021, Complainant timely submitted her Petition. The Agency filed its Response to Complainant's Petition ("Response") on May 26, 2021. On July 14, 2021, the AJ issued the Corrected Order on Complainant's Attorney's Fee Petition. Based on her review of the Petition, the AJ awarded Complainant \$8,098.37 in reasonable attorney's fees.

On August 23, 2021, the Agency issued its Final Order stating that it was accepting in part and rejecting in part the AJ's April 28, 2021, Decision and Order Entering Judgment, and the subsequent July 14, 2021 Corrected Decision. Specifically, that it was accepting the AJ's determination regarding Complainant's hostile work environment claim but rejecting the AJ's determination regarding the Agency's violation of the Rehabilitation Act regarding the medical disclosure.

### CONTENTIONS ON APPEAL

On appeal, the Agency notes that it accepted the AJ's finding that Complainant failed to establish that the Agency subjected her to a hostile work environment based on disability and reprisal. The Agency states the appeal is solely regarding the AJ's decision finding that the Supervisor made an improper medical disclosure in violation of the Rehabilitation Act and the subsequent relief awarded based on the finding of the violation. The Agency reiterates arguments that it had previously made in its prior motions before the AJ. For example, the Agency contends that Complainant's claim was untimely as she failed to consult with an EEO Counselor within 45 days of the allegedly discriminatory act. Even if the Commission considers, as the AJ did, that Complainant's contact was timely, the Agency argues that there is insufficient evidence to demonstrate that the Supervisor was aware of Complainant's medical records or that she disclosed Complainant's medical information. The Agency requests that the Commission reject and reverse the AJ's Order insofar as it determined that the Agency disclosed medical information in violation of the Rehabilitation Act; reject the AJ's tolling of the 45-day time limit; and, therefore, reject the AJ's award of remedial relief.

In response, Complainant, through her attorney, asserts that the AJ did not err in finding that the Supervisor had inappropriately disclosed Complainant's protected medical information. Complainant addresses the cases cited by the Agency in support of its position and distinguished those cases from her own. Complainant notes the Agency's arguments regarding timeliness in terms of EEO Counselor contact and argues that it is irrelevant on appeal. Moreover, Complainant notes that the AJ already addressed the matter and found that tolling was appropriate given that Complainant was reasonably unaware when the disclosure had occurred. Overall, Complainant argues that aside from disagreeing from the AJ's decision, the Agency has failed to provide evidence that would warrant overturning the AJ's decision. Complainant requests that the Commission deny the Agency's appeal.

### STANDARD OF REVIEW

Pursuant to 29 C.F.R. § 1614.405(a), all post-hearing factual findings by an AJ will be upheld if supported by substantial evidence in the record. Substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Universal Camera Corp. v. Nat'l Labor Relations Bd., 340 U.S. 474, 477 (1951) (citation omitted). A finding regarding whether or not discriminatory intent existed is a factual finding. See Pullman-Standard Co. v. Swint, 456 U.S. 273, 293 (1982). An AJ's conclusions of law are subject to a de novo standard of review, whether or not a hearing was held.

An AJ's credibility determination based on the demeanor of a witness or on the tone of voice of a witness will be accepted unless documents or other objective evidence so contradicts the testimony, or the testimony so lacks in credibility that a reasonable fact finder would not credit it. See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9, at § VI.B. (Aug. 5, 2015).

### ANALYSIS AND FINDINGS

As an initial matter, we note that the Commission has the discretion to review only those issues specifically raised in an appeal. *Id.* at Chap. 9, § IV.A.3. Neither the Agency nor Complainant has challenged the AJ's determination that Complainant failed to establish that the Agency subjected her to a hostile work environment based on disability and reprisal. Accordingly, we will only address the AJ's finding of discrimination with regard to claim 1.

#### *EEO Counselor Contact*

The Agency asserted that claim 1 should have been dismissed for untimely counselor contact. EEOC Regulation 29 C.F.R. §1614.107(a)(2) states that the Agency shall dismiss a complaint or a portion of a complaint that fails to comply with the applicable time limits contained in §1614.105, §1614.106 and §1614.204(c), unless the Agency extends the time limits in accordance with §1614.604(c).

EEOC Regulation 29 C.F.R. §1614.105(a)(1) provides that an aggrieved person must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action. EEOC Regulation 29 C.F.R. §1614.105(a)(2) allows the Agency or the Commission to extend the time limit if Complainant can establish that Complainant was not aware of the time limit, that Complainant did not know and reasonably should not have known that the discriminatory matter or personnel action occurred, that despite due diligence complainant was prevented by circumstances beyond her control from contacting the EEO Counselor within the time limit, or for other reasons considered sufficient by the Agency or Commission.

Here, the alleged medical disclosure occurred during an August 22, 2017, management and union meeting. However, Complainant does not initiate EEO Counselor contact until November 5, 2017. Complainant asserted that she had no reason to believe that her medical information was disclosed until early October 2017, when she received vulgar voicemails blaming her for scheduling issues. Based on the circumstances of this case, we agree with the AJ that Complainant did not reasonably develop suspicion until on or about October 5, 2017, when she first received the vulgar phone calls. Therefore, we conclude that the AJ's decision to deny the Agency's motion to dismiss pursuant to 29 C.F.R. §1614.107(a)(2) was appropriate.

#### *Medical Disclosure*

Title I of the Americans with Disabilities Act of 1990 (ADA) requires that all information obtained regarding the medical condition or history of an applicant or employee must be maintained on separate forms and in separate files and must be treated as confidential medical records. 42 U.S.C. §§ 12112(d)(3)(B), (4)(C); 29 C.F.R. § 1630.14.

These requirements also extend to medical information that an individual voluntarily discloses to an employer. See EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA), No. 915.002, at 4 (July 26, 2000) (Guidance I). The confidentiality obligation imposed on an employer by the ADA remains regardless of whether an applicant is eventually hired, or the employment relationship ends. See ADA Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations, at 18 (October 10, 1995) (Guidance II). These requirements apply to confidential medical information from any applicant or employee and are not limited to individuals with disabilities. See Higgins v. Dep't of the Air Force, EEOC Appeal No. 01A13571 (May 27, 2003); Hampton v. U.S. Postal Serv., EEOC Appeal No. 01A00132 (Apr. 13, 2000); Bennett v. U.S. Postal Serv., EEOC Appeal No. 0120073097 (Jan. 11, 2011), req. for recon. den'd, EEOC Request No. 0520110302 (Apr. 29, 2011). Improper Agency disclosure of such medical information constitutes a per se violation of the Rehabilitation Act. Vale v. U.S. Postal Serv., EEOC Request No. 05960585 (Sept. 5, 1997).

The ADA and its implementing regulations list the following limited exceptions to the confidentiality requirement: supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and government officials investigating compliance with this part shall be provided relevant information on request. 42 U.S.C. §§ 12112(d)(3)(B),(4)(C); 29 C.F.R. § 1630.14; Guidance I, at 4.

Upon review, we find that the substantial evidence of the record supports the AJ's determination that the Agency committed a violation of the Rehabilitation Act with respect the inappropriate medical disclosure by the Supervisor during the meeting held on August 22, 2017. The AJ found that the testimony provided by the Case Manager to be credible and, as such, the AJ held that the medical disclosure occurred during the meeting. Further, there was no indication that the release of any medically related details regarding Complainant's absence was qualified under the limited exceptions to the confidentiality requirement. As such, we determine that the Agency violated the Rehabilitation Act with respect to claim 1.

#### *Remedies Ordered by the AJ*

On appeal, the Agency argued that the finding of the violation by the AJ was not appropriate and, therefore by extension, the remedies ordered should also be reversed. The Agency did not contest the specific remedies ordered by the AJ in the April 28, 2021, Decision and Order Entering Judgment or her July 14, 2021, Corrected Order on Complainant's Attorney's Fee Petition. Based on our decision and the failure of the Agency to challenge the specific remedies ordered, we affirm the remedies that the AJ provided.

### CONCLUSION

Therefore, based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we REVERSE Agency's final order with respect to its rejection of the AJ's determination regarding claim 1 and REMAND the matter for further processing accordance with the ORDER below. As claim 2 was not challenged by either parties, we AFFIRM the Agency's final order regarding claim 2.

### ORDER

To the extent that the Agency has yet to do so, the Agency is ordered to take the following remedial actions as previously ordered by the AJ:

1. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall pay Complainant \$2,500 in nonpecuniary damages.
2. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall provide 2 hours of in-person (or interactive trainer-to-trainee videoconference) EEO training to management official the Supervisor, all management officials, human resources personnel, and legal staff assigned to FCC Victorville, to include the facility Warden.<sup>3</sup> The training shall focus on disability discrimination, and in particular, the legal obligation to refrain from disclosing confidential medical information under the Rehabilitation Act.
3. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall consider taking appropriate disciplinary action against the Supervisor. The Commission does not consider training to be disciplinary action. The Agency shall report its decision to the EEOC Compliance Officer as indicated below.
4. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall post a Notice as noted below.
5. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall to Complainant \$8,098.37 in attorney's fees.
6. The Agency shall comply with these orders and provide the Commission with a copy of its compliance report as noted below within **ninety (90) calendar days** of the date this decision is issued.

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<sup>3</sup> A list of the names and title positions of the responsible management officials can be found at Appeal File at 29.

The Agency is further directed to submit a report of compliance, as provided in the statement entitled "Implementation of the Commission's Decision." The report shall include supporting documentation verifying that the corrective action has been implemented.

#### POSTING ORDER (G0617)

The Agency is ordered to post at its Victorville, California facility copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted **both in hard copy and electronic format** by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material. The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

#### ATTORNEY'S FEES (H1016)

If Complainant has been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), she is entitled to an award of reasonable attorney's fees incurred in the processing of the complaint. 29 C.F.R. § 1614.501(e). The award of attorney's fees shall be paid by the Agency. The attorney shall submit a verified statement of fees to the Agency -- **not** to the Equal Employment Opportunity Commission, Office of Federal Operations -- within thirty (30) calendar days of the date this decision was issued. The Agency shall then process the claim for attorney's fees in accordance with 29 C.F.R. § 1614.501.

#### IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g).

Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled “Right to File a Civil Action.” 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL  
RECONSIDERATION (M0920)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC’s Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party’s request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit his or her request for reconsideration, and any statement or brief in support of his or her request, via the EEOC Public Portal, which can be found at

<https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Complainant can submit his or her request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant’s request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency’s request for reconsideration must be submitted in digital format via the EEOC’s Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files his or her request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(c).

#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (T0610)

This decision affirms the Agency's final decision/action in part, but it also requires the Agency to continue its administrative processing of a portion of your complaint. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision on both that portion of your complaint which the Commission has affirmed and that portion of the complaint which has been remanded for continued administrative processing. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or your appeal with the Commission, until such time as the Agency issues its final decision on your complaint. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by his or her full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. If you file a request to reconsider and also file a civil action, **filing a civil action will terminate the administrative processing of your complaint.**

#### RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests.

Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



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Carlton M. Hadden, Director  
Office of Federal Operations

December 9, 2021

Date